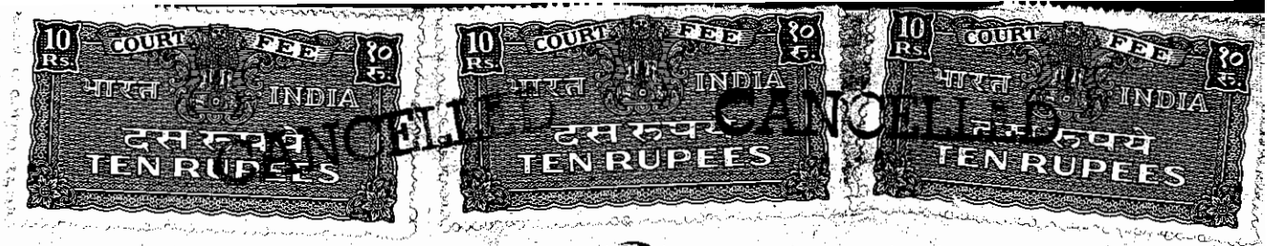

(1)

CP 1008 (3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 2824 /2003 Single Bench

PETITIONER : C.L. Dubey, aged about 66 years
S/O Late D.P. Dubey,
Retire Assistant Teacher,
Govt. H.S. School, Jairamnagar
Distt. Bilaspur (C.G.)

VERSUS

RESPONDENTS : 1) State of Chhattisgarh
Through : Secretary,
Government of Education C.G.
D.K.S. Bhawan, Raipur (C.G.)

2) Director of Public Instruction
D.P.I. Pention Bada, Raipur (C.G.)

3) District Education Officer
D.E.O. Office, Bilaspur (C.G.)

4) Principal,
Government Shahid Bhagat Singh
H.S. School, Jairam Nagar
Distt. Bilaspur (C.G.)

P.R. No. 2676/03
Presented by Shri Vinod Kumar
dated 26.09.03

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शपथ आयुक्त
बिलासपुर तहसील

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

PARTICULARS OF THE PETITIONER :

As per cause title.

2) PARTICULARS OF THE RESPONDENTS :

As per cause title.

Contd...2

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक W.P.No. 2824 **सन् 2003**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10.10.2006

Shri Sandeep Dubey, counsel for the petitioner.

Shri Sandeep Yadav, Deputy Govt. Advocate for the State/ respondents.

Arguments heard.

Order dictated as follows:

ORAL ORDER

(10.10.2006)

Sunil Kumar Sinha, J,

By way of this writ petition filed under Article 226/227 of the Constitution of India, the petitioner has mainly prayed that his seniority may be counted from the date 22.7.1961 and further the promotion of the petitioner may be given from the year 1981 and his salary and other service benefits may be fixed accordingly.

The brief facts are that the petitioner was working as Assistant Teacher in the School Education Department who had retired on 30.4.1988. After his retirement, the retiral dues of the petitioner were paid to him. However, there was a dispute pertaining to the period of service i.e. from 24.11.1965 to 30.08.1967, total period of one year nine months and eight days. This matter was taken up for consideration by the competent authority of the Government and ultimately vide order dated 03.11.1998 (Annexure R-3), it was decided as follows:

"म0प्र0 सिविल सेवा (अवकाश) नियम 1977 के नियम 31 (3) में निहित निदेशानुसार श्री एस0एल0 दुबे सेवा निवृत सहायक अध्यापक शा0 उच्चतर माध्यमिक शाला जयरामनगर जिला बिलासपुर को दिनांक

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मामला क्रमांक ....W.P.2824..... **सन् 2003**

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

24.11.65 से दिनांक 30.8.67 कुल एक वर्ष नौ माह आठ दिवसों का असाधारण अवैतनिक अवकाश एतद द्वारा स्वीकृत किया जाता है ।

दिनांक 24.11.65 से 30.8.67 की अवधि की गणना नियमित सेवा एवं वेतन वृद्धि हेतु मान्य होगा ।

प्रमाणित किया जाता है कि यदि श्री दुबे अवकाश पर नहीं रहते तो सेवा में रहते ।

उप–संचालक लोक शिक्षण,
बिलासपुर म.प्र."

Learned counsel for the petitioner argues that though a decision on the leave case of the petitioner has been taken as above, but no benefit consequent to the above decision has been given to the petitioner. The specific pleadings in relation to these allegations have been made vide paras 5.3 and 5.4 of the petition.

Reply to the above pleadings has been filed by the State. The State has also contended vide para 6 of the reply that the period of absence of the petitioner from duties from 24.11.1965 to 30.08.1967 was declared as extraordinary leave without pay. It is also submitted that vide order dated 13.05.1991 issued by the Deputy Director, Education, Bilaspur, the petitioner was granted time bound promotion in the pay-scale of Rs.1200-40-1440-50-2040 to Rs.1400-40-1440-50-2340-60-2640 w.e.f. 01.01.1986. A copy of this order dated 13.05.1991 has been placed on record as Annexure R-4. In view of this reply filed by the State, submission of learned counsel for the petitioner is that this was a fixation made on 13.05.1991 but when the leave case was decided on

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(57)

मामला क्रमांक W.P. NO. 2824 **सन् 2003**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

03.11.1998, and the benefits were given to the petitioner, his case should have been revised and his service benefits should have been re-fixed accordingly giving benefit of addition of period contained in the order passed in the leave case, a copy of which has been filed as Annexure R-3.

It appears that though a benefit has been given to the petitioner by deciding his leave case vide order dated 03.11.1998 (Annexure R-3) but the consequence of those benefits have not been given to him which may be in the form of post retiral benefits with reference to the decision of the said leave case.

In the facts and circumstances of the case, it is directed that taking the basis of this order Annexure R-3, let the petitioner file a representation before respondent No.2, Director of Public Instructions, along with a copy of this writ petition and a copy of this order within a period of three weeks from today and if such a representation is filed, the aforesaid authority shall decide the same, taking in view the consequences of the order dated 03.11.1998 and shall pass necessary order on the representation filed by the petitioner, as early as possible preferably within a period of three months from the date of receipt of the aforesaid representation. The petitioner shall be obliged to raise his grievances point-wise in the representation particularly on the basis of the order dated 03.11.1998 passed in the leave case calling decision on the points raised by him.

With the above observations, the petition stands disposed of.

No costs.

Sd/-
Sunil Kumar Sinha
Judge

/Rao/
13.10.06 14.11.06